

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

CHARLES JORDAN,)	
Petitioner,)	C.A. No. 21-75 Erie
)	
v.)	District Judge Susan Paradise Baxter
)	Magistrate Judge Richard A. Lanzillo
SUPERINTENDENT MICHAEL)	
CLARK, et al.,)	
Respondents.)	

MEMORANDUM ORDER

This *pro se* action for habeas corpus relief was filed by Petitioner Charles Jordan, an inmate incarcerated at the State Correctional Institution at Laurel Highlands, Pennsylvania (“SCI-Laurel Highlands”), who is serving a sentence of imprisonment imposed by the Court of Common Pleas of Erie County, Pennsylvania. In his habeas petition, Petitioner seeks relief under 28 U.S.C. § 2254, challenging both the entry of his plea and the imposition of his sentence. The petition was referred to United States Magistrate Judge Richard A. Lanzillo, for report and recommendation in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrate Judges.

The record indicates that Petitioner was sentenced to serve an aggregate term of eight to sixteen years’ imprisonment on April 13, 2017. On direct appeal, the Pennsylvania Superior Court affirmed Petitioner’s judgment of sentence on March 27, 2018. Petitioner did not file a petition for allowance of appeal with the Pennsylvania Supreme Court; thus, Petitioner’s judgment of sentence became final on April 26, 2018.

On April 1, 2019, Petitioner filed a petition pursuant to the Pennsylvania Post-Conviction Relief Act, 42 Pa. C.S.A. § 9541, et seq. (“PCRA”), which was dismissed. The dismissal of the

PCRA petition was affirmed on appeal by both the Pennsylvania Superior Court, on April 14, 2020, and the Pennsylvania Supreme Court, on September 29, 2020. The within habeas petition was subsequently filed on February 22, 2021.

On December 20, 2021, Magistrate Judge Lanzillo issued a Report and Recommendation (“R&R”) recommending that the instant petition be dismissed, with prejudice, because it was filed after the expiration of the applicable one-year statute of limitations, and recommending further that a Certificate of Appealability be denied [ECF No. 19]. In particular, Judge Lanzillo noted that the limitations period began to run when Petitioner’s judgment of sentence became final on April 26, 2018; thus, 340 days had passed before Plaintiff filed his PCRA petition on April 1, 2019, which tolled the limitations period during its pendency. Once denial of the PCRA petition became final on September 29, 2020, only 25 days of the limitations period remained from that point on; however, Plaintiff did not file the instant habeas petition until 146 days had passed, rendering it untimely. Objections to the R&R were due to be filed by January 6, 2022; however, no objections have been received from Petitioner.

Thus, after *de novo* review of the petition and documents in the case, together with the report and recommendation, the following order is entered:

AND NOW, this 11th day of February, 2022,

IT IS HEREBY ORDERED that the within petition for a writ of habeas corpus is DISMISSED, with prejudice, and that a Certificate of Appealability is DENIED. The report and recommendation of Magistrate Judge Lanzillo, dated December 20, 2021 [ECF No. 19], is adopted as the opinion of this Court. As there are no further matters pending before the Court

relative to the instant petition, the Clerk is directed to mark this case “CLOSED.”

A handwritten signature in black ink, reading "Susan Paradise Baxter". The signature is fluid and cursive, with the first name "Susan" being the most prominent.

SUSAN PARADISE BAXTER
United States District Judge

cc: The Honorable Richard A. Lanzillo
United States Magistrate Judge

All parties of record